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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,446	06/24/2003	Kelly S. Stack	STK-001	9380

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EXAMINER

SONNETT, KATHLEEN C

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/602,446	Applicant(s) <span style="float: right;">✓</span> STACK, KELLY S.	
	Examiner Kathleen Sonnett	Art Unit 3731	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/24/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claim 1** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 positively recites an infant's wrist; a limitation of the claim is the bracelet being attached around an infant's wrist. Claims directed to or including within their scope a human being are not considered to be patentable subject matter. The claim must be reworded to include the limitation of being *adapted to be attached* to an infant's wrist.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1, 2, 4, 6-14, and 16-20** are rejected under 35 U.S.C. 102(e) as being anticipated by Wilson et al. (U.S. 2004/0098073). Wilson et al. discloses an apparatus comprising a bracelet enclosing a volume and adaptable to be attached to a wrist (Fig. 5a and [0008]). Wilson et al. further discloses that smaller sizes of the bracelet can be used on children ([0046]). A plurality of capsules is within the volume, each of the plurality of capsules containing a substance that is liquid at room temperature ([0042]).
5. Regarding claim 2, Wilson et al. discloses that the material is flexible and stretches and is therefore, elastic. Necessarily, when the bracelet is attached to the wearer's hand, the bracelet is stretched to pass over the hand. When this stretching occurs, the inner circumference is inherently increased.
6. Regarding claim 4, the substance is water ([0042]).
7. Regarding claim 6, the bracelet is made of a pliant material, is doughnut-shaped and has a wrist-facing side and an outer side opposite the wrist-facing side as seen in Fig. 1,2, and 5A.
8. Regarding claim 7, the bracelet is made of a plastic polymer (lines 6-8 of the abstract).
9. Regarding claim 8, the pliant material is elastic as it is flexible, stretches, and conforms to the shape of the limb as described in the abstract.
10. Regarding claim 9 and 10, Wilson et al. discloses that the pliant material includes a fabric layer (112) between the limb and the apparatus that connects to the apparatus through hook and loop patches. The layer (112) acts as an insulation layer and is therefore less thermally conductive. The fabric layer and inside layer (118) make up the

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plural layers on the wrist-facing side and layer (116) forms the single layer elsewhere on the bracelet.

11. Regarding claim 11, Wilson et al. discloses the steps of enclosing a substance in a bracelet (see claim 18), attaching the bracelet to the wrist of a wearer (claim 17), and the step of insulating the wrist of the user from a temperature of the substance (lines 8-10 of para. [0050]). Wilson et al. discloses that the wearer may be a child [0046], which defines an age range that includes infants.

12. Regarding claim 12, the bracelet can be pre-chilled (line 10 of para. [0049]).

13. Regarding claim 13, the wearer inserts their wrist into the bracelet (Fig. 5A).

14. Regarding claim 14, attaching the bracelet involves stretching the bracelet such that the inner circumference of the bracelet is increased as the bracelet passes over the wearer's hand in order to be placed on the wrist (see last sentence of abstract).

15. Regarding 16, as mentioned above, the bracelet is made of a pliant material, is doughnut shaped, and has an inside wrist-facing side.

16. Regarding claims 17 and 18, see the above discussion of claims 9 and 10 and Fig. 6.

17. Regarding 19, the apparatus comprises a cooled substance, means for attaching the cooled substance to a wrist of an infant (by sliding the apparatus over the user's hand) and means for insulating the wrist of the infant from the cooled substance (Fig. 6 and para. [0043]).

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18. Regarding claim 20, the apparatus, which can be configured for a child, constricts around the wrist of the user as it conforms to the shape of the limb and provides compressive force (abstract).

19. **Claim 19** is rejected under 35 U.S.C. 102(b) as being anticipated by Werton (U.S. 5,160,344). Werton discloses a teether comprising a cooled substance (24) and means for attaching the cooled substance to a wrist of an infant. The teether is capable of being slide over the infant's wrist or alternatively snapped on using the interconnection system (14).

***Claim Rejections - 35 USC § 103***

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. **Claims 3 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. Wilson et al. discloses the invention substantially as stated above. Wilson et al. discloses a plurality of water-filled capsules but does not expressly disclose that the water-filled capsules have a rigid covering. However, Wilson et al. further discloses that other free-flowing solid structures such as metal or glass spheres can be used in place of the water-filled capsules ([0042]). The structures disclosed by Wilson et al. are rigid structures and therefore, it would have been obvious to one of

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ordinary skill in the art to make the covering of the water-filled capsules rigid in order to withstand the freezing-thawing process and pressure applied by the user.

22. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. in view of Brink (U.S. 5,843,145). Wilson et al. discloses the invention substantially as stated above, including the presence of water-filled capsules enclosed within the bracelet. Wilson et al. discloses that the bracelet may be chilled, but does not expressly disclose that the water-filled capsules are frozen. However, Wilson et al. does disclose that the gel that surrounds the capsules advantageously does not become a hard solid within the temperature range of from 0°F to 32°F, which indicates that the bracelet will be cooled to these temperatures. The water-filled capsules would then be frozen. Furthermore, Brink discloses that it is old and well known in the art to have capsules that hold frozen liquid dispersed in a gel. The capsules serve to provide means for cooling the gel after the cold (such as by a freezer) is no longer applied to the temperature pack (col. 4 lines 20-32 and 38-50). Therefore, it would have been obvious to one of ordinary skill in the art to freeze the water-filled capsules as made obvious by Brink in order to provide a means for cooling the gel that surrounds the capsules after the bracelet has been chilled and removed from the cold source.

23. **Claims 1, 2, and 4-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Werton (U.S. 5,160,344) in view of Brink (U.S. 5,843,145). Werton discloses a bracelet, the bracelet enclosing a volume. The bracelet is capable of being attached to an infant's wrist. Bracelet portion (22) is a pliable, resilient plastic that can be deformed when chewed on by a baby and returns to its original shape and is therefore being

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considered elastic (col. 1 lines 16-19 and col. 3 lines 30-34). Bracelet portion (22) is filled with a cold retaining material having a large heat capacity (col. 3 lines 34-38). If the bracelet is stretched, the inner circumference will inherently increase. The bracelet is a pliant material as mentioned above, is doughnut-shaped and, if worn as a bracelet, has a wrist-facing side and an outer side opposite the wrist-facing side. Werton fails to disclose a plurality of capsules containing a substance that is liquid at room temperature.

24. However, Brink discloses that it is old and well known in the art to include a plurality of capsules containing a substance that is liquid at room temperature inside a cold retaining material-filled cooling apparatus. The capsules are then frozen and serve to provide a means for cooling the material after the cold is no longer applied to the material by a freezer or other cooling appliance (col. 4 lines 20-32 and 38-50).

Therefore, it would have been obvious to one of ordinary skill in the art to include liquid filled capsules that can be frozen as made obvious by Brink in order to provide a means for continuing to cool the material that surrounds the capsules after the bracelet has been chilled and removed from the cold source.

25. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Werton and Brink as applied to claim 1 above, and further in view of Wilson et al. The modified device of Werton discloses the invention substantially as stated above, but fails to disclose that the capsules have a rigid covering.

26. However, Wilson et al. discloses a plurality of water-filled capsules and further discloses that other free-flowing solid structures such as metal or glass spheres can be



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used in place of the water-filled capsules. These structures are used to increase the amount of time the gel stays cool just as they are in the modified device of Werton. The structures disclosed by Wilson et al. are rigid structures and therefore, it would have been obvious to one of ordinary skill in the art to make the covering of the water-filled capsules rigid in order to withstand the freezing-thawing process and pressure applied by the user.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,993,285 to Sofia et al discloses a teething device that attaches to an infant's wrist in order to prevent the toy from being dropped and consequently, soiled. The device includes elastic fabric to stretch and receive an infant's hand.

U.S. Patent 4,116,202 to Panicci discloses a teething device shaped in a ring that contains fluid-filled cells.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen Sonnett whose telephone number is 571-272-5576. The examiner can normally be reached on 7:30-5:00, M-F, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCS  
6/7/2006

  
GLENN K. DAWSON  
PRIMARY EXAMINER